

# Judge voids molesting conviction

TUE NOV 7 1995  
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OAKLAND — David John Chapman told everyone in the state court system he was innocent of molestation charges, from the jury that convicted him to the two highest courts that refused to overturn his conviction.

This week someone agreed with him, at least enough to give him a second shot at proving his innocence.

In a ruling released Monday, U.S. District Judge Claudia Wilken threw out the 1990 conviction in state court, saying Chapman's attorney, Lincoln Mintz, did not do an adequate job of defending him.

Wilken, a federal judge, dismissed the jury verdict and gave the state 90 days to decide if Chapman should be retried. A spokesman for state Attorney General Dan Lungren's office said it will appeal Wilken's ruling.

Chapman, 58, originally was charged with molesting two children at an Oakland day care center Chapman's wife operated from their home. During the trial, one of the children, a second-grader, testified that Chapman improperly touched him nearly every morning.

An Alameda County Superior Court jury convicted Chapman of molesting that child but acquitted him of molesting the second boy.

Chapman served 2½ years of a 5-year prison sentence. During his incarceration, he lost his sales job

with The Oakland Tribune, where he had been employed for 30 years.

Chapman could not be reached Monday for comment on Wilken's ruling.

Despite numerous people willing to testify on Chapman's behalf, the judge said, they were never called during the 1990 trial in Alameda County Superior Court.

The judge noted the only people Mintz called to testify were Chapman's wife and his two teen-age children. The three family members testified they never witnessed any molestation of children.

But other people were willing to testify on Chapman's behalf, the court noted, citing numerous statements from friends and parents at the day care center.

Each said they often would come unannounced in the morning to drop off children, when the molestations allegedly took place, but never saw any inappropriate touching of youngsters.

"None of these clients were interviewed or contacted by (Chapman's) trial counsel," Wilken wrote.

Mintz believed calling additional witnesses wouldn't bolster his case and could provide fodder for the prosecution, according to Wilken's ruling.